RECENT CASES.

BILLS AND NOTES — SIGNATURE BY OFFICER OF A CORPORATION. — Where nothing appears in the body of a note to indicate who is the maker, and it is signed by a person who affixes to his name an official title as officer of a corporation, the note is *prima facie* that of the person so signing. *Reeve* v. *First Nat. Bank of Glassboro*, 23 Atl. Rep. 853 (N. J.).

The decision in this case, that a person signing a bill or note *prima facie* incurs a personal liability in spite of an official title affixed to his signature, is opposed in principle to the rule in New York, as shown by the cases in 13 N. Y. 309; 3 Blatch. 431; 44 N. Y. 395.

BONDS, RAILWAY — NOTICE OF TRUST-DEEDS. — Plaintiff held a railway bond, reciting that it was one of a series secured by a trust-deed on property of the railway company, and that it was not obligatory till certified by the trust-company. *Held*, on re-hearing, reversing former opinion, that such general recital did not put *bona fide* holder on inquiry as to existence in the trust-deed of a condition which expressly qualified terms of payment and the right to maintain an action on the bond. *Guilford* v. *Minneapolis, S. Ste. M. & A. Ry. Co.*, 51 N. W. Rep. 658 (Minn.).

CARRIERS — CONTRACT LIMITING LIABILITY — USE OF SPECIAL CARS. — Shipping contract specified that "plaintiff had examined the car and had found it suitable for the purpose." *Held*, this does not estop the plaintiff from alleging that the car was unsafe. Common carriers cannot limit their liability to the extent of exempting themselves from the consequences of their own negligence, in not having their cars in good condition. The fact that the horse was shipped in a "Palace Horse-Car" owned by a different company, and procured at the special request of the plaintiff, does not relieve the carrier from liability, if it be unsafe. *Louisville & Nashville R. R.* v. *Dies*, 18 S. W. Rep. 266 (Tenn.).

This is apparently a new ruling in this jurisdiction with regard to freight, though a similar rule has prevailed generally with regard to liability towards passengers carried in cars owned by other companies. 16 Lea, 380; 102 U. S. 457.

CARRIERS — DUTY TO PASSENGER — ASSAULT BY FELLOW PASSENGERS. — *Held*, when a passenger who has been engaged in the eviction of pitmen, having bought his ticket without notice to the company that he was exposed to any particular danger, was assaulted by successive gangs of pitmen crowding into his carriage at successive stations and riding to the next, and the company's servants did nothing to protect the passenger or remove the assailants, that the company was not liable. The court say, — "No obligation is entered into by the railway company with reference to the exceptional and extraordinary circumstances affecting a particular individual." *Pourder* v. *North Eastern Ry. Co.* [1892], 1 Q. B. 385 (Eng.).

CONSTITUTIONAL LAW — POLICE POWER. — A provision that the entire expenses of a railroad commission "shall be borne by the several corporations owning or operating railroads" within the State, is not in conflict with the Fourteenth Amendment. *Charlotte, C. & A. R. Co.* v. *Gibbes*, 12 Sup. Ct. Rep. 255.

CONSTITUTIONAL LAW — CRIMINATING TESTIMONY — EVIDENCE. — A State Statute, with the object of abolishing trusts, enacted that the president of each corporation within the State should make answer under oath as to whether that corporation "has merged any of its business with a trust." If such appeared to be the case, both officers and company were made criminally liable. *Held*, that this Statute was in violation of the constitutional provision that "no one shall be compelled to testify against himself in a criminal case." *State* v. *Simmons Hardware Co.*, 18 S. W. Rep. 1125 (Mo.).

The court relies on *Counselman* v. *Hitchcock*, 12 Sup. Ct. Rep. 195. The exemption from being compelled to testify, is extended to evidence that could be used in future actions, as well as in present dependent actions.

CONSTITUTIONAL LAW — EVIDENCE — COUNTING QUORUM. — *Held*, (1) that a rule of the House of Representatives that the members present but not voting may be counted in determining the presence of a quorum does not infringe any constitutional right, but is a valid exercise of the power of the House. (2) That the journal of the House is conclusive as to the presence of a quorum, and no evidence can be received to impeach it. *United States* v. *Ballin*, 12 Sup. Ct. Rep. 507.

The same principle is involved in the second point of this decision as in *Field* v. *Clark*, 12 Sup. Ct. Rep. 495, *i. e.*, that the fact that a public document is signed and

deposited with its proper custodian, is conclusive of its authenticity, and no outside evidence is receivable to impeach it.

CONSTITUTIONAL LAW — JURISDICTION OF FEDERAL COURTS. — U. S. Rev. Sts. § 5508, make it a crime to conspire to injure any citizen in the exercise of a right secured to him by the Constitution or laws of the United States. The defendants were indicted under this section, they having conspired to kill A, who was in the custody of a United States marshal under a commitment to answer for a crime against the United States. *Held*, that under these circumstances A's right to be protected against lawless violence was a right "secured to him by the Constitution or laws of the United States" within the meaning of the Statute, and that consequently the Federal Courts had jurisdiction of this case. The court distinguishes the *Civil Rights Cases*, 109 U. S. 3; *United States* v. *Cruikshank*, 92 U. S. 542; and *United States* v. *Harris*, 106 U. S. 629. Lamar, J., dissents. *Logan* v. *United States*, 12 Sup. Ct. Rep. 617.

CONSTRUCTIVE TRUSTS — DIRECTOR'S LIABILITY TO COMPANY'S CREDITORS. — The purpose of requiring the ownership of a certain number of shares as a qualification for the office of director, being to assure zeal in the affairs of the company and a careful scrutiny of the same on account of such pecuniary interest, where a director was induced by the promotor of the company to take shares and assume the office through an agreement on the promotor's part to take the shares off his hands at par value at any time, *held*, that to assume and hold the office of director without disclosing this agreement was a breach of confidence against the company. The shares having become practically valueless, and the promotor having taken them off A's hands, in pursuance of the agreement, *held*, that having regard to A's fiduciary position of director, whatever benefit or profit accrued to him under the indemnity constituted by his secret agreement with the promotor, belonged to the assignees of the company. *In re North Australian Territory Co.* [1892], 1 Ch. 322 (Eng.).

Aside from the fact that the agreement was not disclosed, nothing appears in this case showing any fraudulent purpose on the part of the director, or that he did not faithfully perform his duties, or that the company suffered any direct injury. The case can best be put on the broad ground that improper profit made through a fiduciary relation, cannot be retained by the fiduciary.

CONTRACTS — ILLEGALITY — COMBINATION IN RESTRAINT OF TRADE. — A contract made by a corporation with all the manufacturers in the United States of an implement necessary to agriculture, by which for fifty years it is to have power to regulate the price at which they shall sell, and the quantity they shall manufacture, subject only to the condition that its requirements shall be uniform to all manufacturers, is illegal and void. The court will relieve a party to it. *Strait* v. *National Harrow Co.*, 18 N. Y. Supp. 224 (Supr. Ct.).

CONTRACTS — LIABILITY OF CARRIERS — On a shipment of goods under a contract of sale, the consignee is entitled to inspect and examine the goods, to ascertain whether they correspond with the invoice, and to a reasonable time to receive and remove them; and during that period the liability of the carrier as a carrier remains undischarged. *McNeal* v. *Braun*, 23 Atl. Rep. 687 (N. J.).

The doctrine here affirmed is directly *contra* to the Massachusetts doctrine upon the same point.

CONTRACTS — REFUSAL OF THIRD PERSON TO PERFORM CONDITION PRECEDENT. — Though a policy of life insurance requires the production of a certificate of the cause of death from the attending physician as a condition precedent to the right to payment, yet if the physician obstinately and unreasonably refuses a certificate, payment may be enforced without it. *O'Neill* v. *Mass Ben. Ass'n*, 18 N. Y. Supp. 22 (Supr. Ct.).

The New York doctrine that, if an architect unreasonably refuses to certify his satisfaction with work done under a building contract which makes his certificate a condition of recovery, there may be recovery without the certificate, is here extended to a case where the person refusing is not an agent of the party to be charged. The contrary rule is illustrated by *Worsley* v. *Wood*, 6 T. R. 710; *Johnson* v. *Phœnix Insurance Co.*, 112 Mass. 49.

CORPORATIONS — ACCEPTANCE OF CHARTER — INJUNCTION — PLAINTIFF'S STANDING IN COURT. — The Act incorporating a company required that the work necessary to its operation should be commenced within three years, and completed within ten, and these conditions were not satisfied. *Held*, that the company had no legal existence, and that the commencement of the work after the period limited for its completion would be enjoined at the suit of a neighboring private landowner whose property thereby received special injury. *Bonaparte* v. *Baltimore, H. & L. R. R. Co.*, 23 Atl. Rep. 784 (Md.).

The court was divided on this case, the majority holding that the act of incorporation, in order to be effective, required acceptance by the stockholders of the company, to be manifested by a compliance with the stated conditions; and that, failing in this, it had no legal existence. The dissenting justices contended that the corporation had a legal existence from the time of the passage of the Act; that this would be liable to forfeiture by non-performance of the required conditions; but that the proper way to enforce this would be by writ of *quo warranto* sued out by the State, and not by an injunction granted at the suit of a private individual.

The important question in the case is whether a citizen whose property will be specially affected by acts threatened to be done by certain persons under the illegal authority of a charter can dispute the rights of those persons to act under the charte . Here the plaintiff appears to have been the owner of the fee in the highway, and the case does not differ in principle from an attempt of the illegal corporation to build a road through the plaintiff's field under an illegal de egated power of eminent domain. Although the text-writers show that there is some conflict of authorit , y t th · better view is that the reason for not allowing a private person to a tack the validity of an incorporate organization does not apply where the corporation is seek ng to enforce against such person, affected by no estoppel, some special right which the corporation possesses only by virtue of its regular and legal existence; *i. e.*, some special right which the Legislature intended to confer only on a legally formed corporation.

CORPORATION, CITIZENSHIP OF — JURISDICTION OF CIRCUIT COURT. — Although under the Acts respecting the jurisdiction of the Federal Courts, a corporation is a "citizen" only of the State under whose laws it was organiz d, yet, with respect to the district in which it may be sued, under Act of Congress, March 3, 1887, a railroad o telegraph company, chartered either by a State or the United States, is an "inhabitant" of any State in which it operates its lines and maintains offices for the transaction of business. *United States* v. *Southern Pac. R. Co.*, 49 F. d. Rep. 297 (Cal.), Circu t Ct.

CORPORATIONS — CORPORATE ENTITY A FICTION — FORFEITURE OF CHARTER FOR ACTS OF STOCKHOLDERS IN INDIVIDUAL CAPACITY. — Defendant corporation, organized under the laws of Ohio, had thirty-five thousand shares of capital stock. In 1882 all of the shares except seven were conveyed to trustees by the owners acting in their individual capacity, upon trust to hold and vote upon the same. It was made the duty of the trustees — who under a similar agreement were to hold the stock of a large number of other companies engaged in the same business — to establish headquarters in New York, and to manage and control the corporate property, dealing with it in such a way as to benefit, not stockholders of defendant company especially, but all the interests represented in the trust (the Standard Oil Trust) as a whole. In *quo warranto* proceedings for the forfeiture of defendant's charter, it was *held*, that defendant was liable for an agreement made by substantially the whole body of its stockholders, although made by them in their individual capacity and not in the corporate name; and that the agreement in question was *ultra vires*. *State ex rel. Attorney-General* v. *Standard Oil Co.*, 30 N. E. Rep. 279 (Ohio).

See, in accord, *People* v. *North River Sugar Refining Co.*, 121 N. Y. 582; which, singularly, was not cited. The court say that the doctrine of the separate legal entity of corporations is at bottom a fiction, and like other fictions, must not be pressed too far.

CRIMINAL LAW — DEATH IN ONE STATE FROM WOUND INFLICTED IN ANOTHER — CONSTITUTIONAL LAW. — A provision in the code of West Virginia that an offender may be prosecuted where his victim dies, is no violation of the State Constitution requiring a trial in the county where the offence is committed. *Ex parte McNeely*, 14 S. E. Rep. 436 (W. Va.).

CRIMINAL LAW — RE-SENTENCE BY COURT OF APPEAL. — *Held*, that when a prisoner, duly sentenced to death by the trial court, appeals to a higher court, it is not necessary that he should be personally present when the court affirms the sentence, because the court is not imposing a new sentence, but is directing that the former sentence shall be carried out. *Schwab* v. *Berggren*, 12 Sup. Ct. Rep. 525.

EVIDENCE — AUTHENTICATION OF STATUTE — *Held*, that when a duly enrolled bill, signed by the President of the United States and by the presiding officers of the two Houses of Congress, is placed in the hands of the Secretary of State, it is fully authenticated as a law of the United States, and no reference can be had to the journals or other records of Congress to show an inaccuracy in the Act as thus authenticated. The law as laid down by Article 1, § 5, of the Constitution, that each House shall keep and publish a journal, etc , and Rev. St. U. S § 895, which declares that certified extracts from the journals "shall be admitted as evidence in the United States courts,"

is perfectly consistent with this decision. *Field* v. *Clark, Collector*, and *Boyd* v. *United States*, 12 Sup. Ct. Rep. 495.

The appellants in this case had based their argument on the ground that a bill, which was signed by the President and the Speakers of the two Houses, is not a valid law unless in fact it was passed by Congress. The validity of this reasoning is admitted by the court, which rests its decision on the point of evidence, refusing to admit as evidence, to show the mistake, the records of Congress. This, of course, amounts to saying that the court will not act in such cases at all, for the records of the two Houses are surely the best evidence of their proceedings. See also 46 N. J. Law, 173; 63 Miss. 512; 81 Me. 538.

EVIDENCE — CONTRACTS — EFFECT ON STRANGERS. — A contract in terms a bailment of a snow-plough for ninety-nine years could be shown by parol evidence by plaintiff, a stranger not privy to the contract, to be in truth a sale disguised in this form to defraud plaintiff of a commission due on sale of first plough. *Nat. Car & Locomotive Builder* v. *Cyclone Steam Snow-Plough Co.*, 51 N. W. Rep. 657 (Minn.).

MORTGAGE — SUBSEQUENT IMPROVEMENT — MECHANICS' LIEN HAS PRIORITY OVER MORTGAGE. — The Alabama Code provides for a mechanics' lien on buildings and improvements to extent of interest of owner, and gives such lien priority over all liens existing or subsequent. A. has a mortgage on unfinished building; B., a builder, completes it. *Held*, A.'s mortgage is superior to B.'s lien as to the property before B. began work, but inferior to B.'s lien in respect to the added value given by B. B.'s lien on improvements may be enforced by sale of whole property under decree of court. Two judges dissented, on the ground that the mechanics' lien was intended to be prior only when a wholly separate improvement was made; that the improvement here was inseparable; and that the lien extended only to mortgagor's equity of redemption. *Wimberly* v. *Mayberry*, 10 So. Rep. 157 (Ala.).

MUNICIPAL CORPORATIONS — POWER TO ISSUE NEGOTIABLE BONDS. — The city of B had, by its charter, power to borrow money "for general purposes, not exceeding $15,000, on credit of said city." The charter also contained a provision that "bonds of the city shall not be subject to tax under this Act." *Held*, that the city has no power to issue negotiable bonds for this amount, and that such bonds are void in the hands of *bona fide* purchaser. *Held*, also, that "power to borrow for general purposes" means for such purposes only as are usually carried out by the revenue received from taxes The court overrule *Rogers* v. *Burlington*, 3 Wall. 654, and *Mitchell* v. *Burlington*, 4 Wall. 270. Harlan, Brewer, and Brown, J J. dissent. *City of Brenham* v. *German-American Bank*, 12 Sup. Ct. Rep. 559.

The court say that by the charter the city has power to issue non-negotiable bonds, but that this power is distinguishable from that of issuing negotiable bonds.

MUNICIPAL CORPORATIONS — POWER TO BORROW — IMPLIED POWER TO ISSUE BONDS. — A Statute of Massachusetts authorized defendant town to suscribe for shares in a projected railroad, and to raise by loan or taxes the necessary money. *Held*, in an action upon bonds issued under this provision, that the power to borrow included an implied power to issue negotiable instruments. *Commonwealth* v. *Town of Williamstown*, 30 N. E. Rep. 472 (Mass.).

The court decline in terms to follow *Merrill* v. *Town of Monticello*, 138 U. S. 673; their opinion being in accord with that expressed by Mr. Hackett in the REVIEW, vol. v. p. 157, and again on p. 73 of the present volume.

SET-OFF — INSOLVENT BANK — RIGHTS OF DEPOSITORS. — A depositor in an insolvent bank, who had indorsed a note that was subsequently discounted by said bank, can, in a suit by the bank to recover the amount of the note, set off his deposit against this amount, when the note matured after the insolvency of the bank. Refusing to follow *Armstrong* v. *Scott*, 36 Fed. Rep. 63, and *Stephens* v. *Schuchmann*, 32 Mo. App. 333; *Bank* v. *Price*, 22 Fed. Rep. 697, distinguished. *Yardley* v. *Clothier*, 49 Fed. Rep. 337 (Pa.), Circuit Ct.

STATUTE, CONSTRUCTION OF. — The Alien Contract Labor Law prohibits the importation of "any" foreigner under contract to perform "labor or service of any kind." The plaintiff was an alien residing in England. The parish of Trinity Church contracted with him to come to this country to act as their rector. The United States began this action on the ground that the plaintiff was within the prohibition of the Statute. The court reverses the decision of the Circuit Court in favor of the Government (36 Fed. Rep. 303), holding that although clergymen are within the letter of the law, the Legislature never intended that the law should extend to them. *Rector etc.* of *Holy Trinity Church* v. *United States*, 12 Sup. Ct. Rep. 511.

The effect of this decision is, as the court says, that the court may in its discretion override the express language of an Act in order to give effect to the supposed intention of the Legislature. The intention in this case is gathered from the early history of this country, which shows that our people is a religious people, and would not interfere with whatever aided in the advancement of religion. This is undoubtedly true, as a matter of fact, and yet it may be asked whether in making a decision like this, the court is not getting on very uncertain and dangerous ground.

STATUTE, CONSTRUCTION OF — SPIRITUOUS LIQUORS.— Beer is not a "spirituous liquor" within the meaning of Rev. St. U. S. § 2139, denouncing the offence of selling "spirituous liquors or wine" to Indians. *In re McDonough*, 49 Fed. Rep. 360 (Mon.) Dist. Ct.

The court construes the Statute as above on the ground that "spirituous liquor" means distilled as distinguished from fermented liquor. This meaning of the term is reinforced in this case by the general rule "that, if possible, in the construction of a Statute, every word should be considered of use, and given a proper meaning;" while, under the interpretation contended for, the word "wine" in the Statute under consideration would be redundant and useless.

STATUTE CONSTRUCTION OF.— A saloon-keeper who allows his bartender to enter the saloon on Sunday and help himself to a glass of beer is guilty of offence of keeping his saloon open on Sunday. *People* v. *Crowley*, 51 N. W. Rep. 517 (Mich.).

STATUTE OF LIMITATION — DISCOVERY OF FRAUD. — Gen. St. Minn., c. 66, § 6, subd. 6, provides a six years' limitation in action for relief on the ground of fraud, and that the cause of action shall not be deemed to accrue until the discovery of the fraud. *Held*, that the Statute cannot be avoided, on the ground of delay in discovering the fraud, by a land-grant railroad company with respect to lands lying within its place limits, which have been selected as indemnity lands by another land-grant company, and have been certified to the State as such, and by it conveyed to the company; since all these proceedings were necessarily matters of public record, which it was inexcusable neglect not to discover. 44 Fed. Rep. 817, and 32 Fed. Rep. 821, reversed. *St. Paul, S. & T. F. Ry. Co.* v. *Sage*, 49 Fed. Rep. 315 (Minn.) Circuit Ct. of App.

SURETYSHIP — DISTINCTION BETWEEN SURETY AND GUARANTOR — DISCHARGE OF SURETY.— Contract for service, with bond for faithful performance of duty, signed by agent and three sureties. *Held*, that this was not a contract of guaranty, but of suretyship, as the sureties executed the same instrument as the principal, and could therefore be sued in the first instance, or joined, as here, as co-defendants with the principal. One of the sureties could not withdraw, after the bond was executed, even with notice to the obligee, without his express consent. *Saint* v. *Wheeler & Wilson Manuf. Co.*, 10 So. Rep. 541 (Ala.).

This decision is in accord with 63 Ala. 419, at p. 423, and enforces again the rather fine distinction between the surety, whose liability to third persons is a direct and primary liability, and the guarantor, whose liability is only secondary.

TORT — MALICIOUS PROSECUTION — PROBABLE CAUSE — ADVICE OF MAGISTRATE.— In an action for malicious prosecution, the defendant made and signed a complaint charging plaintiff with breaking and entering. The trial resulted in the plaintiff's acquittal. *Held*, that evidence that defendant in making the complaint acted on the advice of a justice of a district court, to whom the complaint was addressed, is admissible, as tending to show that defendant acted in good faith and with probable cause. *Monaghan* v. *Cox*, 30 N. E. Rep. 467 (Mass.).

We may gather from the decision that if *Olmstead* v. *Partridge*, 16 Gray, 381 [1860], were to arise to-day, it would be decided differently.

TRADE NAME — GOOD WILL.— By putting a particular name on a building as a sign of the hotel business, a tenant does not make the name a fixture to the building so that it becomes the property of the landlord upon the expiration of the lease. Such a name is personal to the proprietor, and not an element of good-will of the business. *Vonderbank* v. *Schmidt*, 10 So. Rep. 617 (La.); S. C. 44 La. Ann. See an article by G. D. Cushing in 4 Harv. Law Rev. 321, "On Certain Cases Analogous to Trade-marks."

WILL — CONSTRUCTION.— The testator, by his will, directed "that any or all notes, bills, or other evidence of indebtedness against any of my said brothers held by me at the time of my decease be cancelled by my said executors and delivered up to the maker or makers thereof without payment of the same." *Held* that this clause did not include joint and several notes, given after the date of the will by a partnership of which a brother was a member to raise money to carry on the partnership business. *Waterman* v. *Alden*, 12 Sup. Ct. Rep. 435.

The point involved in this case is one on which the authorities are in conflict. In 121 N. Y. 280, the court decided that a pledge of collateral to secure the defendants' indebtedness to the plaintiff bank, did not include debts due from the firm of which the defendant later became a member. The court said that the mercantile idea of a partnership is that it is a distinct person from the partners, and that as the mortgage was executed by business men, it must be construed in that sense, although in law the firm is not distinct from its partners. In 154 Mass. 359, the court decided that collateral deposited "applicable on any note or claim against me" by the pledgee could be held to secure acceptances by a firm to which the pledgor belonged which had been discounted by the pledgee The court says that partners must be considered as knowing that claims against their firm are claims against them personally, and that their written contracts must be construed in the light of such knowledge. In *Waterman* v. *Alden*, the court has adopted the New York view, thus reaching what seems the better result. It is hard to see why a court when construing a business man's instrument should refuse to read it in the light of an ordinary man's knowledge, should insist on presuming that a man knows what very few probably do really know, and then construe the instrument with a total disregard for what is meant by the parties.

WILL — CONSTRUCTION. — A testator devises a freehold estate to seven persons as "joint tenants, and not as tenants in common, and to the survivor of them, his or her heirs and assigns forever." The testator died after the coming into operation of the Wills Act (1 Vict. c. 26, the effect of which was to make the word "heirs" unnecessary to the devise of a fee). *Held*, that the effect of the devise was to make the devisees joint tenants for life, with a contingent remainder in fee to the survivor. *Quarm* v. *Quarm* [1892], 1 Q. B. 184 (Eng.).

REVIEWS.

COMMENTARIES ON THE LAW OF SALES AND COLLATERAL SUBJECTS, by Jeremiah Travis, LL.B. Two volumes, pp. xiii, 808. Boston: Little, Brown, & Co., 1892.

The author's claim in behalf of these two large volumes is that they present a fresh treatment of their topic: "the work is an absolutely new one on the subject, not a rehash of Blackburn, Benjamin, or any other writer" (p. xiii). This claim to independence is justified. Mr. Travis's book has nothing in common with the undigested compilations of authorities, — good, bad, and indifferent thrown in together, — which sometimes masquerade as treatises on the law. So much one can say in praise of its general plan. One should add that on many points the author's criticisms are acute; that his industry must have been enormous; that the book is provided with an excellent analytical index; and that the work of printer and binder, as might have been expected, is admirably done.

As a whole, however, the book will supersede neither Blackburn nor Benjamin. To the student, the former is infinitely more helpful. The general impression left by Mr. Travis is that he has criticised cases rather than principles, and the result in the reader's mind is confusion. There is too much detail; the book is too big. Yet, curiously, the objection brought against it by the general practitioner will be exactly the reverse of this. Mr. Travis not only treats the existing case law very cavalierly, but he fails to state with even reasonable fulness what it is. For example, under the seventeenth section of the Statute of Frauds, he devotes eleven pages to a discussion of the series of English cases upon the distinction between contracts of sale and those for work and labor. From his silence as to other jurisdictions, one would naturally infer